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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/747,683

12/30/2003

Michael John Brickwood

82910-1902 ADB

2871

23529

7590

10/23/2006

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CANADA

EXAMINER

PIERCE, WILLIAM M

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/747,683

Applicant(s)

BRICKWOOD ET AL.

Examiner

William M. Pierce

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**WILLIAM M. PIERCE**  
**PRIMARY EXAMINER**

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

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#### **DETAILED ACTION**

##### ***Claim Rejections - 35 USC § 112***

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, "the front face" lacks a proper antecedent.

##### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Billings et al. 5,087,043.

As to claims 1 and 10, shown is a substrate 233, game information 104, game data 112, removable covering 108, battery 540, conductive path 403, powered element 202 and switch 410. Fig. 4 shows the battery and paths on a front face of the substrate. The removable coverings of 108 are considered to make it a "break open ticket" as called for in claim 5. No further structure is recited in the claim

##### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6, 7, 11, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Billings in view of Kaiserman et al. 5,973,420.

Billings does not discuss printed battery or conductive paths. Such technology is admittedly old and in use as taught by Kaiserman. To have printed the batter and paths of Billings would have been obvious in order to make it cheaper to manufacture. As to claims 6 and 9, scratch off layers are old and well known to cover indicia. To have replaced the covering 108 of Billings with a scratch off covering would have been obvious in order replace one known

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covering means with that of another. While it is recognized that this modification would render the apparatus of Billings to a single use, one can still use his invention as disclosed. The single use nature of removable covering is an expected result or limitation to using them. As to claim 7, where the switch is shown to be responsive to the coverings 108 in Billings so to would the removal of any other subsequent covering used. The use of lights as called for in claims 11 and 12 in games such as that of Billings to make them more visually stimulating is considered old and well known. As to claim 14 to have provided a separate power source for each area 112 of Billings would have been an obvious matter of choice in order to provide each area with its own power source. Applicant has not shown where such an arrangement of indicia is critical to his invention by solving any particular problem or producing any unexpected results.

Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Billings in view of Kaiserman et al. 5,973,420 and further in view of Kaiserman 6,188,506.


'506 teaches the application of color changing conductive ink for use in game board like Billings would have been obvious in order to enhance the visual appeal of the game.

#### **Conclusion**

Claim 8 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. The art does not fairly teach a conductive scratch off covering.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Pierce whose telephone number is 571-272-4414 and E-mail address is bill.pierce@USPTO.gov. The examiner can normally be reached on Monday and Friday 9:00 to 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
**WILLIAM M. PIERCE**  
**PRIMARY EXAMINER**

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**WILLIAM M. PIERCE**  
**PRIMARY EXAMINER**